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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/945,038 08/31/2001 Ann Mond Johnson 3056

34060 7590 05/31/2006

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

EXAMINER

COBANOGLU, DILEK B

ART UNIT PAPER NUMBER

3626

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/945,038	Applicant(s) JOHNSON ET AL.	
Examiner Dilek B. Cobanoglu	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 March 2006.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Amendment

1. This communication is in response to the amendment filed 3/30/2006. Claims 1-4 continue pending, claims 5-12 have been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papageorge (U.S. Patent No. 6,584,445 B2) in view of Perkins et al. (U.S. Patent No. 5,724,379).

A. As per claim 1, Papageorge discloses a method for providing healthcare information and treatment options for a previously diagnosed condition of a particular healthcare consumer (Papageorge; abstract and col. 7, line 60 to col. 8, line 4), said method comprising the steps of:

i. Providing information relating to said condition from at least one database (Papageorge; abstract),

Papageorge fails to expressly teach without involving a medical professional; providing to the particular healthcare consumer, information relating to said previously diagnosed condition from at

least one database said information comprising, with respect to treating the previously diagnosed condition in other healthcare consumers per se, since it appears that Papageorge is more directed to computerized health evaluation system which allows for full patient participation in treatment selection and a shared decision-making process with physicians in order to choose among different costs and post-treatment outcomes (Papageorge; col. 4, lines 10-15). However, this feature is well known in the art, as evidenced by Perkins et al.

In particular, Perkins et al. discloses without involving a medical professional; providing to the particular healthcare consumer, information relating to said previously diagnosed condition from at least one database said information comprising, with respect to treating the previously diagnosed condition in other healthcare consumers (Perkins et al.; col. 2, lines 5-15).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the computerized health evaluation system with the without involving a medical professional; providing to the particular healthcare consumer, information relating to said previously diagnosed condition from at least one database said information comprising, with respect to treating the previously diagnosed condition in other healthcare consumers with the

motivation of getting more efficient healthcare services when comparing health-care services from different providers (Perkins et al.; col. 1, lines 56-58).

Papageorge also fails to expressly teach providing for each of plurality of healthcare providers, a measure of the healthcare provider's charges and a measure of the healthcare provider's quality per se, since it appears that Papageorge is more directed to computerized health evaluation system which certain data is used by the system to estimate direct and indirect costs for each treatment option (Papageorge; col. 7, lines 34-36 and col. 7, line 60 to col. 8, line 4). However, this feature is well known in the art, as evidenced by Perkins et al.

In particular, Perkins et al. discloses providing for each of plurality of healthcare providers, a measure of the healthcare provider's charges and a measure of the healthcare provider's quality (Perkins et al.; col. 2, lines 30-36 and col. 2, line 66 to col. 3, line 27).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the computerized health evaluation system, which certain data is used by the system to estimate direct and indirect costs for each treatment option with providing for each of plurality of healthcare providers, a measure of the healthcare provider's charges and a measure of the healthcare

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provider's quality with motivation of ensure that the healthcare services being rendered to the patient population are made more efficient.

- ii. Papageorge also fails to expressly teach receiving from the particular healthcare consumer, a plurality of criteria, related to selecting a desired healthcare provider to treat the previously diagnosed condition per se, since it appears that Papageorge is more directed to computerized health evaluation system which patient is asked about his/her functional status and how much it may be impaired; whether work, family, lifestyle, and/or future plans are affected; and the treatment preferences (Papageorge; abstract and col. 6, line 66 to col. 7, line 7). However, this feature is well known in the art, as evidenced by Perkins et al.

In particular, Perkins et al. discloses receiving from the particular healthcare consumer, a plurality of criteria, related to selecting a desired healthcare provider to treat the previously diagnosed condition (Perkins et al.; col. 2, lines 5-15).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the computerized health evaluation system with the without involving a medical professional; providing to the particular healthcare consumer, information relating to said previously diagnosed condition from at least one database

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said information comprising, with respect to treating the previously diagnosed condition in other healthcare consumers with the motivation of getting more efficient healthcare services when comparing health-care services from different providers (Perkins et al.; col. 1, lines 56-58).

- iii. Identifying to the healthcare consumer, treatment options (Papageorge; abstract and col. 8, lines 12-21)

Papageorge fails to expressly teach identifying treatment options for said previously diagnosed condition, said treatment options comprising a listing of the plurality of healthcare providers ranked according to one or more of the prioritized criteria per se, since it appears that Papageorge is more directed to computerized health evaluation system which allows for full patient participation in treatment selection and a shared decision-making process with physicians in order to choose among different costs and post-treatment outcomes (Papageorge; col. 4, lines 10-15). However, this feature is well known in the art, as evidenced by Perkins et al. In particular, Perkins et al. discloses identifying treatment options for said previously diagnosed condition, said treatment options comprising a listing of the plurality of healthcare providers ranked according to one or more of the prioritized criteria (Perkins et al.; col. 2, lines 5-15 and lines 30-36).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the computerized health evaluation system which allows for full patient participation in treatment selection and a shared decision-making process with physicians in order to choose among different costs and post-treatment outcomes with the identifying treatment options for said previously diagnosed condition, said treatment options comprising a listing of the plurality of healthcare providers ranked according to one or more of the prioritized criteria with the motivation of getting more efficient healthcare services when comparing health-care services from different providers (Perkins et al.; col. 1, lines 56-58).

B. As per claim 2, Papageorge discloses the method of claim 1, further comprising the step of correlating the identified treatment options with demographic data (Papageorge; col. 7, lines 27-29 and col. 7, line 65 to col. 8, line 4).

C. As per claim 3, Papageorge discloses the method of claim 1, further comprising the step of correlating the identified treatment options with the plurality of criteria selected and ranked by the particular healthcare consumer (Papageorge; col. 6, line 66 to col. 7, line 7).

D. As per claim 4, Papageorge discloses the method of claim 1, further comprising the step of updating said at least one database (Papageorge; col. 7, lines 17-19).

Response to Arguments

4. Applicant's arguments filed 3/30/2006 have been fully considered but they are not deemed to be persuasive. Applicant's arguments will be addressed below in the order in which they appear.

5. The 35 U.S.C. 101 rejection of claims 1-4 as being directed to "non-statutory subject matter because the claimed invention must be within the technological arts" has been withdrawn because of the new rule recently reversed by USPTO. (Board opinion: Ex Parte Lundgren, Appeal No. 2003-2088 (BPAI 2005)). Claims 5-12 have been cancelled by the Applicant.

6. In response to Applicant's first argument, the Applicant states that the Papageorge reference does not teach "without involving a medical professional; providing to the particular healthcare consumer, information relating to said previously diagnosed condition from at least one database said information comprising, with respect to treating the previously diagnosed condition in other healthcare consumers, for each of plurality of healthcare providers, a measure of the healthcare provider's charges and a measure of the healthcare provider's quality". The Examiner respectfully submits that none of the claims 1-4 had the limitations that have been added to these claims before the amendment (those new limitations are underlined), therefore with the added limitations, Examiner used another reference with the main reference which she used in the first Office Action and using the motivation in the second reference the Examiner believes that the combinations of the teachings of Papageorge and Perkins et al. have the same limitations as the claimed invention.

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7. The Applicant states that the Papageorge reference does not teach receiving from the particular healthcare consumer, a plurality of criteria, related to selecting a desired healthcare provider to treat the previously diagnosed condition. As explained above, none of the claims 1-4 had the limitations that have been added to these claims before the amendment (those new limitations are underlined), therefore the Examiner used another reference with the main reference which she used in the first Office Action and using the motivation in the second reference the Examiner believes that the combinations of the teachings of Papageorge and Perkins et al. have the same limitations as the claimed invention.

8. Also, the Applicant states that the Papageorge reference does not teach identifying to the particular healthcare consumer treatment options for said previously diagnosed condition, said treatment options comprising a listing of the plurality of healthcare providers ranked according to one or more of the prioritized criteria. The Examiner respectfully submits that none of the claims 1-4 had the limitations that have been added to these claims before the amendment (those new limitations are underlined), therefore with the added limitations, Examiner used another reference with the main reference which she used in the first Office Action and using the motivation in the second reference the Examiner believes that the combinations of the teachings of Papageorge and Perkins et al. have the same limitations as the claimed invention.

9. De-Bruin Ashton reference is not used in this rejection.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.


13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBC

DBC
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4/14/2006


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER